

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN CALIFORNIA GAS COMPANY for authority to update its gas revenue requirement and base rates. (U 904 G)

Application 02-12-027
(Filed December 20, 2002)

Application of SAN DIEGO GAS & ELECTRIC COMPANY for authority to update its gas and electric revenue requirement and base rates. (U 902-M)

Application 02-12-028
(Filed December 20, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON MOTION OF SOUTHERN CALIFORNIA GAS COMPANY
AND SAN DIEGO GAS & ELECTRIC COMPANY
TO STRIKE PORTIONS OF THE TESTIMONY OF UCAN AND TURN
FROM PHASE 1 OF THE PROCEEDING**

Summary

On September 16, 2003, San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) jointly filed a motion to strike specified portions of the prepared testimony of Mr. Shames for the Utility Consumers' Action Network (UCAN), and Mr. Marcus (jointly for UCAN and The Utility Reform Network (TURN)), that the applicants characterize as applicable to ratemaking for periods after test year 2004. SDG&E and SoCalGas also moved to strike specified portions of the prepared testimony of Mr. Shames and Mr. Woychik for UCAN that propose to defer to Phase 2 the recovery in rates of incentive compensation for employees. Upon consideration of the motion, it is denied at this time and interested parties need not respond further.

Discussion

The Cost of Service applications were originally filed by SDG&E and SoCalGas with the expectation that an incentive mechanism could be adopted. Thus certain assumptions are integrated into those applications and supporting testimony that tend to presume some form of incentive regulation will be applicable for test year 2004 and beyond. The availability of parties and certain expert witnesses, and the need for an expeditious adoption of the 2004 revenue requirement, led to bifurcating the incentive phase (Phase 2) from the revenue requirements phase (Phase 1). The pre-served testimony of applicants that is now applicable to Phase 2 was not stricken as a result of bifurcation. It will be only addressed when timely in Phase 2, and would only be considered sooner in Phase 1 if a compelling argument were subsequently made before the assigned Administrative Law Judge. Rather than strike now as premature those portions of TURN or UCAN testimony, and see them resubmitted later, we can defer consideration of the merits until it is timely.

The testimony of Mr. Shames and Mr. Woychik for UCAN proposing to defer to Phase 2 consideration of recovery in rates of incentive compensation for employees is properly a Phase 1 issue because the compensation costs appear to fall within the clear scope of test year 2004 revenue requirements and the testimony does not constitute a motion to defer that requires a ruling at this time. Because applicants seek recovery in Phase 1, the issue of opposition to recovery in 2004 is live now.

There is an imperfect line between Phases 1 and 2 but I intend to address any testimony in Phase 1 to the extent that it is relevant to determining the adequacy or fairness of the 2004 test year revenue requirement and defer testimony to Phase 2 if it is relevant to determining what if any incentive mechanism should be adopted for test year 2004 and beyond. The issue of when

SDG&E and SoCalGas should file the next rate case is timely in Phase 1 if it affects the adequacy or fairness of 2004 test year revenue requirements but it is deferrable to Phase 2 to the extent that it addresses what if any incentive mechanism should be adopted. This and any other similar allocations between Phases 1 and 2 can be addressed in the hearings when the parties are present.

Applicants should serve rebuttal testimony as already scheduled that addresses the adequacy or fairness of the Phase 1 test year 2004 revenue requirements. Applicants may serve further rebuttal related to Phase 2 incentives when a schedule is adopted for Phase 2.

IT IS RULED that:

1. The motion to strike portions of testimony served by the Utility Consumers' Action Network and The Utility Reform Network is denied, and parties need not respond to this motion.
2. Pre-served testimony that is applicable to Phase 2 will be deferred without striking it from the record.
3. Applicants should serve rebuttal testimony as scheduled that responds to intervenor testimony on Phase 1 test year 2004 revenue requirements. A schedule for Phase 2 has not been adopted.

Dated September 22, 2003, at San Francisco, California.

/s/ DOUGLAS LONG by LTC
Douglas Long
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling on Motion of Southern California Gas Company and San Diego Gas & Electric Company to Strike Portions of the Testimony of UCAN and TURN from Phase 1 of the Proceeding on all parties of record in this proceeding or their attorneys of record.

Dated September 22, 2003, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.